

Appl. No. 09/443,883
Amtd. dated August 11, 2003
Reply to Office Action of May 12, 2003

REMARKS/ARGUMENTS

Applicant respectfully request Examiner's reconsideration of his rejections of the present application.

Claims 1 - 25 remain pending in the present application.

Claims 1 - 25 stand rejected under 35 U.S.C. §102(e) as being clearly anticipated by *Rajski et al.* ('909), *Pierce et al.* ('770), and *Narayanan* ('376), individually and further rejected under 35 U.S.C. §102(b) as being clearly anticipated by *Scott et al.* ('497) and *Beausang et al.* ('789).

Applicants respectfully assert that the Examiner has not made a *prima facie* case for anticipation. In citing these five references, Applicants are unable to adequately respond to the general assertions made by the Office Action. The Office Action has not pointed out clearly in each of the references the alleged anticipation of Applicants' claims. For example, in the Office Action's discussion of claim 1, the five references are cited generally. The lack of specificity in presenting the particular facts of each reference goes on throughout the Office Action. These cited references appear to constitute a broad field of knowledge to which Applicants to which cannot effectively respond. Applicants have not been directed to particular areas of interests in the cited references (i.e., columns, lines) or shown particular figures in each of the references that are alleged to anticipate Applicants' claimed invention. Applicants believe that the spirit of the MPEP has not been followed. In particular, per MPEP §2131:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently describe in a single prior art reference." *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

In order find a *prima facie* case of anticipation, the Examiner must provide (1) a single reference (2) that teaches or enables (3) each of the claimed elements (arranged as in the claims) (4) expressly or inherently (5) as interpreted by one of ordinary skill in the art. As stated by the Federal Circuit and presented above:

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, as arranged in the claim. *Lindermann Maschinenfabrik GMBH v. American Hoist and Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984)

Appl. No. 09/443,883
Amdt. dated August 11, 2003
Reply to Office Action of May 12, 2003

The Office Action has **not** presented each reference and mapped out how and why it anticipates Applicants' claims. Consequently, Applicants respectfully assert that the Examiner has not met the burden of proof in showing anticipation.

In light of the arguments presented, the §102 rejections are improper and should be withdrawn.

Applicant believes he has addressed the Examiner's concerns. Therefore, the claims are now allowable over the cited references. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Please charge any fees other than the issue fee and credit any overpayments to Deposit Account 14-1270.

Respectfully submitted,

Date: 11-AUG-2003

By Peter Zawilski
Peter Zawilski
Registration No. 43,305
(408) 474-9063

Correspondence Address:

Intellectual Property & Standards
Phillips Electronics North America Corporation
1109 McKay Drive; Mail Stop SJ41
San Jose, CA 95131 USA

RECEIVED

AUG 12 2003

Technology Center 2100



24738

PATENT TRADEMARK OFFICE

OFFICIAL